



STATE OF MAINE
JOHN ELIAS BALDACCI
GOVERNOR

DEPARTMENT OF CONSERVATION
LAND USE REGULATION COMMISSION
LAKE VIEW DRIVE
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GREENVILLE, MAINE 04441

PATRICK
MCGOWAN
COMMISSIONER

PERMIT

AMENDMENT A TO BUILDING PERMIT BP 6460

The staff of the Maine Land Use Regulation Commission (hereafter, the Commission), after reviewing the application and supporting documents submitted by Clayton S. and Judith C. Jewett for Amendment A to Building Permit BP 6460, finds the following facts:

1. Applicant: Clayton S. and Judith C. Jewett
214 Old Jay Hill Road
Jay, Maine 04239
2. Date of Completed Application: October 29, 2004
3. Location of Proposal: Northeast Carry Township, Piscataquis County
Taxation Lot #84 on Plan 09
4. Zoning: (D-RS) Residential Development Subdistrict
5. Lot Size: 1.14 Acres (owned)
6. Principal Building: Existing Seasonal Camp (20 ft. by 32 ft.)
7. Accessory Structures: Existing Storage Shed (8 ft. by 10 ft.)
Existing Staircase (3 ft. by 41 ft.) (*Authorized in this permit amendment*)
8. Affected Waterbody: Moosehead Lake

The Commission has identified Moosehead Lake as a resource class 1A, management class 7, relatively accessible, relatively developed lake with significant shore character resources, and outstanding fisheries, wildlife, scenic, botanical, cultural and physical resources.

Background

9. The applicants' lot is part of a pre-Commission subdivision [Reference: AR 01-069]. The lot was developed prior to the inception of the Commission with a seasonal camp, storage shed, and shoreline access staircase. The seasonal camp was served by a primitive wastewater disposal system with a pit privy.

10. Building Permit BP 6460, issued to the applicants in September of 1988, authorized replacement of the pre-Commission seasonal camp with a 20 foot by 32 foot camp and replacement of the primitive gray water disposal system.
11. In 2003, the applicants constructed a 3 foot by 41 foot staircase, set back 32 feet from the normal high water mark of Moosehead Lake, without prior permit approval from the Commission [Reference: Enforcement Case EC 04-043].

Proposal

12. The applicants seek after-the-fact approval for the 3 foot by 41 foot staircase. The staircase is set back 32 feet from the normal high water mark of Moosehead Lake and provides access to the shoreline over a bank with an approximately 40% slope. The stairs were constructed using pressure treated lumber supported pressure treated posts. The staircase was constructed entirely above grade with little or no soil disturbance. The applicants state that the existing staircase had deteriorated and was no longer safe to use, and therefore the new staircase was constructed to provide safe access to the beach over a steep bank and to prevent erosion from foot traffic.

Review Criteria

13. Under provisions of Section 10.26, D of the Commission's Land Use Districts and Standards, the minimum setbacks for residential structures are 100 feet from waterbodies such as Moosehead Lake, 50 feet from the traveled portion of all roadways, and 15 feet from side and rear property boundary lines.
14. Under provisions of Section 10.26, G, 5 of the Commission's Land Use Districts and Standards, an exception may be made to the shoreline, road, and/or property line setback requirements for structures where the Commission finds that such structures must be located near to the shoreline, road, or property line due to the nature of their use.

Review Comments

15. The Maine State Soils Scientist reviewed the application and expressed no objections to the proposal, but commented that had the application been submitted prior to construction, he would have recommended that the applicant repair the embedded lot steps rather than construct an above-grade staircase.
16. The Piscataquis County Soil and Water Conservation District reviewed the application and expressed no objections to the proposal.
17. The facts are otherwise as represented in Building Permit BP 6460, Amendment Request A, and supporting documents.

Based upon the above Findings, the staff concludes that:

1. The proposed staircase, set back 32 feet from the normal high water mark of Moosehead Lake, does not comply with the Commission's minimum waterbody setback requirement pursuant to Section 10.26, D of the Commission's Land Use Districts and Standards.
2. The proposed staircase may be allowed within 100 feet of the normal high water mark of Moosehead Lake under provisions of Section 10.26, G, 5 of the Commission's Land Use Districts and Standards, in that the staircase must be located to the shoreline due to the nature of its use and because of the steep slope of the applicants' lot to the shoreline of Moosehead Lake.
3. If carried out in compliance with the Conditions below, the proposal will meet the Criteria for Approval, section 685-B(4) of the Commission's Statutes, 12 M.R.S.A.

Therefore, the staff approves the application of Clayton S. and Judith C. Jewett with the following conditions:

1. The Standard Conditions (ver. 10/90), a copy of which is attached.

Notwithstanding Condition #3 of the Standard Conditions (ver. 10/90), construction activities permitted in this permit must be substantially started within two (2) years of date of issue and substantially completed within five (5) years from date of issuance of this permit. If such construction activities are not begun and completed within this time limitation, this permit shall lapse and no activities shall then occur unless and until a new permit has been granted by the Commission.

2. The standards for Vegetative Clearing, Section 10.27,B of the Commission's Land Use Districts and Standards, a copy of which is attached.
3. The standards for Filling and Grading, Section 10.27,F of the Commission's Land Use Districts and Standards, a copy of which is attached.
4. The permitted staircase must be set back a minimum of 32 feet from the normal high water mark of Moosehead Lake, 50 feet from the access road, and 15 feet from other property boundary lines.
5. To protect the scenic quality of Moosehead Lake, all structures must be screened with vegetation from view from the lake, and, if of other than a natural wood finish, all structures must be painted or stained a natural color to blend with their surroundings. The structures must not be sited on a ridge or knoll such that they are visible above the treeline from the lake.
6. Any activities which result in unstabilized soil conditions must comply with the General and Design Standards of Section 10.25,M,1 and 2 of the Commission's Land Use Districts and Standards, a copy of which is attached.

7. All exterior lighting fixtures must conform with the Lighting Standards, Section 10.25,F,2 of the Commission's Land Use Districts and Standards, a copy of which is attached.

This permit is approved upon the proposal as set forth in the application and supporting documents, except as modified in the above stated conditions, and remains valid only if the permittees comply with all of these conditions. Any variation from the application or the conditions of approval is subject to prior Commission review and approval. Any variation undertaken without Commission approval constitutes a violation of Land Use Regulation Commission law. In addition, any person aggrieved by this decision of the staff may, within 30 days, request that the Commission review the decision.

DONE AND DATED AT GREENVILLE, MAINE, THIS 16th DAY OF NOVEMBER, 2004.

By: Jennifer C. Speers
for Catherine M. Carroll, Director